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facts it has been held that the witness is exempt only in his personal capacity. *Currie Fertilizer Co. v. Krish*, (Ky.) 74 S. W. 268; *Linn v. Hagan*, 121 Ky. 627, 87 S. W. 1101; *Breon v. Miller Lumber Co.*, (S. C.) 65 S. E. 214, 24 L. R. A. N. S. 276. However, the weight of authority apparently supports the holding in the principal case that the exemption applies to a witness in both his personal and representative capacities. *Sewannee Coal, Coke & Land Co. v. Williams*, 120 Tenn. 339, 107 S. W. 968; *Mulhearn v. Press Pub. Co.*, 53 N. J. Law 153, 21 Atl. 186, 11 L. R. A. 101. See also 32 Cyc. 493 and 24 L. R. A. N. S., note. On the second point, there appear to be only two reported cases which have held that a suitor or witness is not exempt from service while in an intermediate state en route to or from a trial. *Holyoke Coal, Coke & Land Co. v. Ambden*, 55 Fed. 593, 21 L. R. A. 319; *Cronk v. Wheaton*, 15 Pa. Dist. Rep. 721. On the other hand, the doctrine that such persons are exempt from service when in an intermediate state is supported by the decision of one case and the dictum of another. *Lofge v. Lowes*, 131 Tenn. 626, 176 S. W. 106, L. R. A. 1916A 734; *Barber v. Knowles*, 77 Oh. St. 81, 82 N. E. 1065, 14 L. R. A. N. S. 663, 11 Ann. Cas. 1144. Further, the rule of the principal case as applied to intermediate counties is supported by authority. *Tyrone Bank v. Doty*, 2 Pa. Dist. Rep. 558, 12 Pa. Co. Ct. 287; *Hoffman v. Judge of Circuit Ct.*, 113 Mich. 109, 71 N. W. 480, 38 L. R. A. 663, 67 Am. St. Rep. 458. Thus it seems that the interpretation of the Oklahoma statute, while very liberal and extensive in its application, is in accord with the better reason and authority. For a discussion of the question as to whether this defect in service was waived by pleading to the merits after the plea to the jurisdiction was overruled, see the following note.

PROCESS—WAIVER OF DEFECT IN SERVICE BY PLEADING TO MERITS.—The defendant corporation, after excepting to the order of the court overruling its plea to the jurisdiction, went to trial on the merits. Judgment was rendered for the plaintiff and an appeal taken. Held, that the defendant did not waive the jurisdictional objection by contesting the case on the merits. *Commonwealth Cotton Oil Co. v. Hudson*, (Okla. 1916) 161 Pac. 535.

The decisions of the various courts of the United States are in hopeless conflict on the question of waiver raised in the principal case. 16 L. R. A. N. S. 177, note; L. R. A. 1916E 1082, note. For a full discussion of the question, see "PRESERVING A SPECIAL APPEARANCE," 9 MICH. L. REV. 396. While it may seem incongruous to maintain that one can contest a cause on its merits and still not waive objections to the jurisdiction, yet it may be answered that it is hardly fair for a defendant to be deprived of the benefit of jurisdictional defects when he, in court under protest, defends himself under compulsion rather than suffer judgment by default. This is the reasoning on which the decision in the principal case was based. For a discussion of the precise jurisdictional question involved in this case, see the preceding note.

WILLS—EXTRAORDINARY STOCK DIVIDEND AS RESIDUE.—At the time of making her will, testatrix was the owner of 30 shares of stock in the Stand-